

Can the legislature terminate the employment of particular individuals, or reduce (or increase) their salaries?

No, with the exception of limited positions within the legislative branch.³

If the legislature doesn't approve the number of FTE, why are they discussed in budget deliberations and listed in the budget documents produced by the Legislative Fiscal Division?

The FTE listed represent the number and composition of FTE used to determine the personal services appropriation. There are two types of FTE:

- 1) FTE for which funding is authorized by the legislature⁴ may be of two-types:
 - a) ongoing, which may be used to determine the base budget in the next biennium;
 - b) one-time-only, which cannot be used to determine the next biennium base budget
- 2) "Modified" FTE are those approved by the approving authority without legislative action. Modified positions cannot be used to build the base budget in the next biennium.

³ The directors of the three legislative divisions serve at the pleasure of the relevant committees, as do certain session personnel hired by the presiding officers.

⁴ "Current level" positions.

There are two ways to add modified FTE during the interim without legislative action:

- a) Through the budget amendment process, which allows the approving authority to add appropriations authority (and FTE) under limited, controlled circumstances.
- b) Through existing authority, regardless of source. As long as sufficient authority exists to pay the personal services costs, the approving authority can add modified FTE.

If an agency wishes to make modified FTE ongoing, funding can be requested of the legislature. At the same time, as long as sufficient funds are available, the approving authority can continue to approve the same position as a modified FTE indefinitely. Due to the lack of oversight, it is obviously in the legislature's best interest that these FTE be reviewed in the legislative process.

"The legislature can add or eliminate funding for functions associated with FTE, or for individual positions."

Legislative Fiscal Division



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LFD Mission Statement

We are committed to enhancing the legislative process through understandable and objective fiscal policy analysis and information.

LEGISLATIVE FISCAL DIVISION



**FOCUS ON...
STATE
EMPLOYEES**

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Fiscal Pocket Guide



"State employee positions exist to implement functions in response to requirements of the constitution and statutes."

***In fiscal 2003 there were
12, 858 FTE state employees
and 4,088 FTE University System
employees***

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This pamphlet provides information on state government employees, and the legislative role in influencing the number and attributes. If you are new to state government concepts and terminology, you may wish to start with the pamphlets “Basic State Finances” and “Montana’s Budgeting Process”, also from the Legislative Fiscal Division.

The chart at the bottom of the page shows the number of full-time equivalent (FTE)¹ employees since 1994. Please note that the chart includes all FTE, including any added by agencies during the interim.

This pamphlet makes three main points about the legislature and the number of FTE state employees:

1) The legislature can not approve or disapprove FTE, but rather provides the funding to pay personal services costs based upon an anticipated number and composition of FTE.

2) The legislature can significantly influence the number of FTE through the creation and maintenance of functions and requirements, and through funding provided in appropriations bills (primarily HB 2, the general appropriations act).

¹ The equivalent of one person working full time for the entire year. One FTE can consist of more than one position or employee.

3) The legislature can statutorily mandate the existence of positions and require that they be filled, but cannot prohibit the filling of any position.

Does the legislature directly determine how many state employees there are by approving or disapproving the number of FTE?

No. The legislature provides the funding necessary to support FTE and assumes a certain number of FTE in budgeting. However, due to issues of separation of powers, the legislature does NOT approve or disapprove FTE. The actual number of FTE is within the purview of each agency, with the approval of the appropriate approving authority.²

² The Governor - For all executive agencies except the Montana University System
The Supreme Court - For the Judiciary
The Board of Regents - For the Montana University System
The appropriate committee (Legislative Council, Legislative Finance Committee, Legislative Audit Committee) - For the three legislative divisions

If the legislature doesn’t directly determine the number of FTE, how can it influence the number of state employees?

In two ways:

1) By specifying what state government is supposed to do and be. State employee positions exist to implement functions in response to requirements of the constitution and statutes. Therefore, the legislature can influence the number of FTE by adding, deleting, or modifying functions or other requirements, with a corresponding change in appropriations.

2) By providing appropriations for personal services in HB 2 and other appropriations bills. The legislature can add or eliminate funding for functions associated with FTE, or for individual positions.

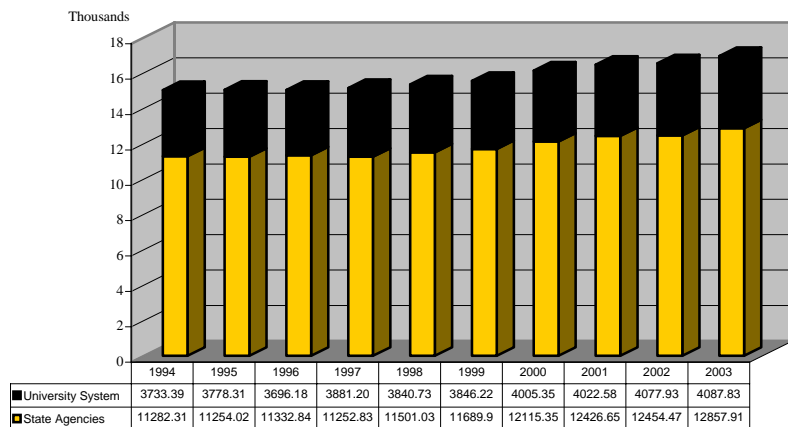
Can the legislature require that a particular position be filled?

Yes, but only if statute designates a particular function, and requires that a person perform that function. For example, statutes require a code commissioner, outline the necessary qualifications, and prescribe duties. Otherwise, even if funding is provided, the agency does not have to fill the position.

Can the legislature prohibit an agency from filling a particular position?

No. Even if the legislature eliminates funding associated with a position with the clear expectation that it not be filled, the agency could fill the position if sufficient resources were diverted for that purpose.

**Full Time Equivalent State and University System*Employees
Fiscal 1994 through 2003**



Source: Office of Budget and Program Planning

*Current unrestricted funds only